

REMARKS/ARGUMENTS

The Examiner has delineated the following inventions as being patentably distinct.

Group I: Claims 10-13, drawn to a polymer of transition metal bridged units.

Group II: Claims 14-17, drawn to a process for the preparation of said polymer.

Group III: Claim 18, drawn to a method of controlling the viscosity of said polymer.

In response to the Restriction Requirement mailed January 31, 2008, Applicants elect without traverse Group I (Claims 10-13) directed to a polymer of transition metal bridged units.

Further, Applicants reserve the right to file divisional applications on the non-elected subject matter, if so desired, and be accorded the benefit of the filing date of the parent application.

Divisional applications filed thereafter should not be subject to a double-patenting ground of rejection 35 U.S.C. §101, *In re Joyce* (Commr. Pat. 1957) 115 USPQ 412.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (M.P.E.P. §803).

Moreover, when making a lack of unity of invention in a national stage the Examiner has the burden of explaining why there is no single inventive concept.

The Examiner asserts that the Groups I, II and III do not relate to a single general inventive concept under PCT Rule 13.1 and 13.2 because they lack the same corresponding special technical feature.

The Examiner, however, has not considered that the claims in each group are considered related inventions under 37 C.F.R. §1.475(b) in which the inventions are considered to have unity of invention. Applicants submit that while PCT Rule 13.1 and 13.2

are applicable, 35 U.S.C. §11.475(b) provides, in relevant part that “a national stage application containing claims to different categories of invention will be considered to have unity of invention if the claims are drawn to (3) a product, process, and the use of the product.”

Applicants make no statement regarding the patentable distinctness of the groups but note that for the restriction to be proper there must be patentable differences.

Applicants submit that the above-identified application is now in condition for examination on the merits and an early notice of such action is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
Norman F. Oblon

Customer Number

**22850**

Tel: (703) 413-3000  
Fax: (703) 413 -2220  
(OSMMN 08/07)



---

Paul J. Killos  
Registration No. 58,014